



BRIEFING: May 6-7, 2014 BOARD MEETING AGENDA ITEMS #2, 4, 5 and 6

TO: Chairman Richard and Authority Board Members

FROM: Diana Gomez, Central Valley Regional Director
Mark A. McLoughlin, Director of Environmental Services

DATE: May 6-7, 2014

RE: Materials for Consideration – (a) California High-Speed Train Fresno to Bakersfield Section Final Project EIR/EIS Certification Covering Downtown Fresno to Downtown Bakersfield and (b) Approval of HST Project Alignment (and associated facilities) from Downtown Fresno to 7th Standard Road northwest of Bakersfield and a Kings-Tulare Station Location

Summary of Requested Action:

Staff will recommend that the Board take two distinct actions:

- Certify that the Fresno to Bakersfield High-Speed Train (HST) Section Final Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) is complete and adequate as an informational document for the Board, and has been completed in accordance with the California Environmental Quality Act (CEQA)¹
- Approve an HST alignment – *i.e.*, the Preferred Alternative – and associated facilities (but no Heavy Maintenance Facility) from the southern edge of the already-approved Fresno Mariposa Street HST station to 7th Standard Road in Kern County northwest of Bakersfield as well as the Kings/Tulare Regional Station East station location near Hanford (see attached map)

Discussion and Background

The Fresno to Bakersfield HST project section, including its precise alignment alternatives and environmental review of the alignment alternatives, has been in development since at least 2009.

¹ The statewide high-speed train system (including the Fresno to Bakersfield Section) is now subject to Federal Surface Transportation Board (STB) jurisdiction under the Interstate Commerce Commission Termination Act of 1995 (ICCTA). Nevertheless, staff recommends that the Authority complete the CEQA process (*i.e.*, certify the Final EIR) for the Fresno-Bakersfield Section without waiving the implications of STB jurisdiction, including that STB jurisdiction preempts CEQA and any remedy sought under CEQA.

In August 2011, a Draft Project EIR/EIS for the Fresno to Bakersfield Section was circulated for public comment and made available to the Board. In response to stakeholder, agency, and public feedback, the Authority and its funding partner the Federal Railroad Administration (FRA) decided in fall 2011 to revise the Draft EIR/EIS² to include additional information and additional alternatives.

The Fresno to Bakersfield Revised Draft EIR/Supplemental Draft EIS circulated in July 2012 for public comment and was presented to the Board in August 2012. This 2012 document evaluated an additional alignment alternative through Bakersfield, a new alignment alternative and station location west of Hanford, and refinements to the 2011 Fresno to Bakersfield alignment alternatives.

The Authority extended the public review period for each of these 2011 and 2012 draft environmental documents beyond the minimum required by CEQA – extended to twice the minimum in the case of the 2012 draft document.

The 2011 and 2012 Draft environmental documents were extensive. They generally consisted of:

- Volume I:
 - Introductory text about the project and the environmental process.
 - Detailed description of the Fresno to Bakersfield alignment options (called “alternatives”) and their locations, and all related and supporting HST facilities such as stations, maintenance facilities, electrification infrastructure, etc.
 - Detailed environmental impacts and mitigation analysis across 17 environmental resource areas, such as biology, noise and vibration, visual, air quality and cultural resources, just to name a few.
- Volume II:
 - Technical Appendices supporting Volume I
- Volume III:
 - Preliminary Design Drawings and Alignment Plans/Map upon which environmental analysis is based

Throughout the 2011 and 2012 environmental review process of both of these draft environmental documents, approximately 7,800 individual comments (contained in approximately 2,200 submissions) from the public and government agencies were received in writing and in public testimony. The purpose of the public review process is for the public and interested agencies to review the analysis and provide comment and feedback about environmental impacts. The required public review step, under CEQA at least, comes at the draft EIR stage.

In November 2013, Staff recommended identification of a Preferred Alternative alignment and stations to the Board; until that point, all alternative alignments had received a co-equal level of

² Authority Board action is under CEQA, which involves EIR documents. CEQA’s federal equivalent is the National Environmental Policy Act (NEPA), which requires EIS documents. Generally, an EIR and EIS are very similar. Accordingly, for a project like HST that involves approvals by state and federal entities, EIRs and EISs are often combined into one document, as has been done here. Analysis in the EIR/EIS that pertains to CEQA only is so noted; the same for NEPA-only analysis.

focus. The Board concurred in the identification of that Preferred Alternative and instructed staff to prepare a final environmental document based on it and to continue the federal environmental permitting (e.g., wetlands) process on it. This step in November 2013 was not Board approval of any alignment; it was merely continued environmental process to help focus attention. The Preferred Alternative is shown on the attached map.

On April 18, 2014, the Authority issued the Final EIR/EIS and you were notified the same day of its availability for your review on the Authority's website at http://www.hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html. Elements of the Final EIR/EIS in paper form are also included with this memo for your convenience.

The Final EIR/EIS as a general matter is what its name implies – a finalized form of the Draft EIR/EIS documents. It is not an entirely new document. It contains information and analysis that is very similar to the 2012 Draft document. However, it is common for a Final EIR/EIS to incorporate refinements to the project, and refinements to the environmental analysis, in response to public comments. Where the discussion in the Final EIR/EIS has changed and/or been refined from the 2012 Draft document, the Final EIR/EIS identifies the changes in shading. The Preface to the Final EIR/EIS includes a summary discussion of changes.

Importantly, however, the Final EIR/EIS also consists of copies of comment letters and oral comments the Authority formally received during the comment periods (and even includes many late-received comments) on both the 2011 and 2012 Draft documents. The Final EIR/EIS also includes responses to each of the thousands of comments received. These comment submissions and responses are contained in Final EIR/EIS Volume IV (2011 Draft EIR/EIS comments) and Volume V (2012 Revised Draft EIR/EIS comments). Many comments covered similar issues. Accordingly, Volumes IV and V also contain numerous Standard Responses, which are detailed and respond to the common comments received.

The Final EIR/EIS was not issued for another round of public review and comment. CEQA does not require that step. All CEQA requires is that the proposed response to any comment received from a public agency be provided to that public agency at least 10 days prior to Board certification of the Final EIR/EIS. The Authority complied with that requirement, but also went further: The Authority posted the Final EIR/EIS on its website 17 days before the proposed certification on May 7th. The Authority also distributed hard copies of the Final EIR/EIS to libraries throughout the Fresno-Bakersfield portion of the Central Valley, and generally widely informed the public of its availability. Although not required by CEQA, the Authority will provide a public comment opportunity on the Final EIR/EIS on May 6th at the Board meeting.

Requested Action

It is important to note the purpose of CEQA, which sometimes gets lost in all the procedural discussion. The purpose of CEQA is to ensure the public and government decision makers are informed, and that decision makers inform themselves, through consideration of CEQA documents, of the potential environmental consequences of a proposed government action. In the case of EIRs in particular, public comment on draft EIRs helps round out the information going to decision makers.

The first step at the approval stage is for the Board to certify, if it so chooses, that the Final EIR/EIS is adequate as an informational document for the Board about environmental consequences of the project. That certification takes the form of the draft Resolution enclosed with this memo, which states that the Final EIR/EIS has been completed in compliance with CEQA, has been presented to the Board and that the Board has reviewed and considered the information in it, and that the document represents the Authority's independent judgment. Certification of the Final EIR/EIS is a prerequisite to approving the project, but certification by itself does not approve the project.

The second and distinct step is for the Board to consider whether to approve the project in question, in light of the environmental consequences disclosed in the (certified in the first step) EIR/EIS. That approval takes the form of the other draft Resolution enclosed with this memo. This step also involves making written acknowledgments (called "Findings") about the environmental consequences (as stated in the Final EIR/EIS) that will flow from the approval, and requiring mitigation to minimize those consequences. For environmental consequences that cannot be mitigated, this step also involves making written conclusions that the benefits of implementing the project outweigh the unmitigated consequences – called a Statement of Overriding Considerations (SOC). The Findings, SOC and a mitigation chart (called a Mitigation Monitoring Reporting Plan or MMRP) are included in Attachments A and B to the draft project approval Resolution.

The requested actions, therefore, involve

- Board certification of the Final EIR/EIS as an adequate informational document in compliance with CEQA; and
- Board approval of an HST alignment and associated facilities (staff recommends the Preferred Alternative) from the southern edge of the already-approved Fresno Mariposa Street HST station to 7th Standard Road in Kern County, northwest of Bakersfield, as well as the Kings/Tulare Regional Station East alternative in the Hanford area – see attached map. This approval also would include adoption of the Findings, SOC and MMRP.
 - Staff's recommendation to approve the portion of the Fresno to Bakersfield Section (Preferred Alternative) only to 7th Standard Road is made in recognition that the Authority, as of now, has not secured funding to build into Bakersfield. Secured funding is sufficient to construct at least to 7th Standard Road, so only approval to there is being requested today. The EIR/EIS contains analysis all the way to the downtown Bakersfield station, which (if the Board certifies it) facilitates approval for facilities south of 7th Standard Road when warranted.
 - Staff also recommends reserving until a future time approval of a Heavy Maintenance Facility

Structure of the Meeting

The May 6th/7th Board meeting is structured as a two-day meeting to ensure an adequate time for thorough consideration of the Fresno to Bakersfield Final EIR/EIS.

On May 6th, staff will give a presentation to the Board about the Fresno to Bakersfield Final EIR/EIS. Public comment then will be taken about all agenda items (per normal Board meeting protocol under the Bagley-Keene Open Meetings Act), including the Fresno to Bakersfield Final EIR/EIS and the proposed Fresno to Bakersfield project approval. Comment will be taken until at least 7:30 pm to ensure any daytime workers wishing to comment will have time after work.

The meeting then will recess until 10 am the following day.

At 10 am the following day (May 7th), staff will present a brief summary of the comments heard on May 6th and staff's responses to those comments.

The Board then will deliberate about the Final EIR/EIS and consider certifying it, as noted above.

If the Board certifies the Final EIR/EIS, the Board then will deliberate about the Fresno to Bakersfield Preferred Alternative alignment and associated facilities and will consider approving it (staff recommends the Preferred Alternative) to 7th Standard Road, and a Kings/Tulare Regional Station East, and adopting associated CEQA Findings, SOC and MMRP.

Staff Recommendation

Staff recommends that the Board adopt the attached draft resolutions #HSRA 14-09 and #HSRA 14-10.

#HSRA 14-09 certifies the completeness and adequacy of the Fresno to Bakersfield Section Project EIR/EIS for compliance with CEQA.

#HSRA 14-10 approves the Preferred Alternative and associated facilities from the southern edge of the already-approved Fresno HST station to 7th Standard Road in Kern County and a Kings/Tulare Regional Station East; adopts the CEQA Findings of Fact and Statement of Overriding Considerations, Mitigation Monitoring and Reporting Program; and directs staff to file a CEQA Notice of Determination with the State Clearinghouse and proceed with implementation of the project (*e.g.*, secure right of way, procure a construction contractor for Board approval, etc.).

Attachments/Enclosures

There are multiple materials in support of these agenda items that staff includes with this memo:

- Map of the Preferred Alternative
- Executive Summary of the Fresno to Bakersfield Section Final Project EIR/EIS
- Highlights of Fresno to Bakersfield Section Final Project EIR/EIS
- Brochure of Fresno to Bakersfield Section Final Project EIR/EIS
- 1 CD-ROM set containing complete text of the Fresno to Bakersfield Section Final project EIR/EIS (*these items are also available on the Authority website:*
http://www.hsr.ca.gov/Programs/Environmental_Planning/final_fresno_bakersfield.html)
- Printed copy of Standard Responses to most frequently raised comments

- Draft Resolution #HSRA 14-09
- Draft Resolution #HSRA 14-10
 - Exhibit AA – map of Preferred Alternative, showing 7th Standard Road
 - Exhibit A – CEQA Findings of Fact and Statement of Overriding Considerations
 - Exhibit B – Mitigation Monitoring and Reporting Program